

Manufacture's Purchase Credit ("MPC") can only be used to satisfy a liability under the Use Tax Act or Service Use Tax Act incurred on purchases of certain production related tangible personal property. See 35 ILCS 105/3 -85 and 35 ILCS 110/3-70. (This is a GIL.)

May 9, 2008

Dear Xxxxx:

This letter is in response to your letter dated August 20, 2007, in which you requested a Private Letter Ruling. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

Whether to issue a Private Letter Ruling in response to a request for such a ruling is within the discretion of the Department. See subpart (a)(4) of 2 Ill. Adm. Code 1200.110. The Private Letter Ruling Committee has decided that it will not issue a Private Letter Ruling in regards to your request. The Committee believes that the response to your question should instead be provided in the context of a General Information Letter. In your letter you have stated and made inquiry as follows:

I am writing you for a Private Letter Ruling on the issue of production related tangible personal property with reference to Manufacturer's Purchase Credit Earned against the use tax liability on our natural gas bill.

ABC manufactures grinding wheels. In our manufacturing process, ABC uses ovens and kilns to dry and fire the product. The ovens and kilns consume natural gas to heat the product up to approximately 2200 degrees. We are seeking to apply the credit to tax paid on our natural gas used to produce the heat for our manufacturing process. Our justification is as follows:

- Under Illinois Department of Revenue Regulations (Title 86 part 130, section 130.331-b-1) Using Manufacturer's Purchase Credit, the regulation states, 'The credit may be used to satisfy Use Tax or Service Tax liability incurred on the purchase of qualifying production related tangible personal property.'
- Under the same regulation, but different sub section [sic] (Title 86 part 130, section 130.331-b-3-A) the regulation defines production related tangible

personal property as, 'All tangible personal property used or consumed in a production related process'.

- (Title 86 part 130, section 130.331-b-4-B) goes on to illustrate, 'Supplies and consumables used in the manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.'

ABC's feels it meets all the requirements to apply the credit earned against our use tax liability on our natural gas bill. I have attached a copy of the Illinois Department of Revenue Regulations on Manufacturer's Purchase Credit and have highlighted the subsections quoted above. Also attached is a similar letter ruling you have issued concerning a ready-mix cement truck.

Please advise ABC in writing on the legal interpretation of the regulation governing the Manufacturer's Purchase Credit.

## **DEPARTMENT'S RESPONSE:**

The State of Illinois provides a Manufacturer's Purchase Credit (MPC) in addition to the exemption for manufacturing machinery and equipment. See the Department's regulation regarding the Manufacturer's Purchase Credit at 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualify for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax Act or Service Use Tax Act on the purchase of that machinery and equipment. See 35 ILCS 105/3-85 and 35 ILCS 110/3-70.

The credit may be used to satisfy liability under the Use Tax Act or the Service Use Tax Act that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See 35 ILCS 105/3-85(b). "Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility.

You have inquired about using MPC against the tax liability due on your company's natural gas purchases. Natural gas services provided through mains, lines, or pipes are taxed either under the Gas Revenue Tax Act or Gas Use Tax Law. The Gas Revenue Tax Act imposes a tax on persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale. See 86 Ill. Adm. Code 470.110. The Gas Use Tax Law imposes a tax on the privilege of using in this State gas obtained in a purchase of out-of-state gas. See 86 Ill. Adm. Code 471.110.

The taxes imposed under the Use Tax Act and Service Use Tax Act do not apply to the sale of natural gas or gas services by public utilities or their use by consumers. As noted above, MPC can only be used to satisfy a liability under the Use Tax Act or the Service Use Tax Act that is incurred on the purchase of production related tangible personal property. Therefore, MPC cannot be used to satisfy any part of the tax imposed under the Gas Revenue Tax Act or Gas Use Tax Law on purchases of natural gas regardless of how the natural gas is used by the purchaser.

In contrast, the purchase of other fuels, such as gasoline, diesel fuel, and bottled propane or other gases, is subject to liability under the Use Tax Act. MPC may be used to satisfy the liability

due under the Use Tax Act on those fuels if they are used in a qualifying manner. See 86 Ill. Adm. Code 130.331(b)(3) and (b)(4).

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Senior Counsel, Sales & Excise Taxes

TDC:msk